

CHAPTER 11

JUVENILE MATTERS

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JUVENILES

1101. GENERAL

a. The age limits for classifying persons as juveniles vary according to the laws of the particular state. Federal law defines a juvenile as "any person who has not attained his 18th birthday."

b. Active duty military personnel under the age of 18 are subject to the Uniform Code of Military Justice and are not affected by juvenile laws.

c. The security officer of each installation will become familiar with host State juvenile statutes and prepare standard operating procedures defining actions to be taken with juvenile offenders aboard installation property.

1102. GENERAL PROCEDURES

a. Whenever a juvenile is taken into custody for an offense or other act of delinquency, the juvenile must be provided with the appropriate constitutional warning against self-incrimination. This warning must be provided in language which the juvenile understands.

b. The parent(s), guardian, or custodian must be notified that the juvenile is in custody, the exact nature of the alleged offense, and the juvenile's rights against self-incrimination. This notification must be made immediately after the juvenile is taken into custody and the identification of the responsible adult is obtained. The time of the custody, the time of the notification, and the identity and relationship of the person notified must be reported in the Incident Report (IR). This notification is the responsibility of the detaining agency and must be made even if the matter is referred to the Naval Criminal Investigative Service (NCIS) or other agency. As Department of the Navy (DON) policy, the parent, guardian, or custodian must be given a reasonable opportunity to be present during any interrogation of the juvenile. If the adult cannot be present for any reason, the reason for the absence will be indicated in the IR.

c. Fingerprints or photographs of a juvenile may be taken. These records must be safeguarded under 18 U.S.C. 5038, et. seq. Some states prohibit fingerprinting/ photographing of juvenile offenders without a written order of a judge/magistrate. The staff judge advocate should be consulted for establishing local policy.

d. Federal law and DON policy requires that a juvenile in custody be taken before a local magistrate at the first opportunity, and that a juvenile shall not be detained for longer than a reasonable period of time before being brought before a magistrate. As a practical matter, juveniles detained by Navy law enforcement personnel for minor offenses are normally released to the custody of their parents.

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e. In many instances, a minor offense can be disposed of without delay. Serious offenses, or offenses involving repeat offenders, may require administrative or judicial action.

(1) Offenses under the jurisdiction of NCIS will be referred to NCIS at the earliest possible time. Juveniles detained on offenses under NCIS jurisdiction will be turned over to them at their request, provided there is no unreasonable delay.

(2) Within U. S. jurisdiction, juvenile offenders will be referred to local police juvenile authorities. Security officers will establish liaison with local police to develop working agreements for the referral of juveniles.

f. There are no special requirements concerning the interview of a juvenile as a witness. During the on-scene phase of any incident, juveniles may be interviewed in the same manner as any other witness. As a matter of policy, however, in-depth or follow-up interviews of juveniles will not be conducted without first advising a parent, guardian, or custodian of the nature of the situation and the need to interview the juvenile.

1103. RECORDS

a. The age of an offender has no effect on the need for detailed and accurate records of any incident or complaint. An IR will be prepared on each situation which fits the criteria for that form.

b. Security departments will establish a separate file for the retention of records concerning juvenile offenders. This file will be in a distinctly different location from adult files to lessen the chance that a juvenile record will be placed in the adult IR files, and will preferably be kept locked to prevent unauthorized disclosure. Access to this file will be restricted to individuals specified by the security officer as having a need-to-know. Provided local state law does not object, juvenile records may be released to:

(1) The judge of a juvenile court having jurisdiction over the offender.

(2) An attorney representing the juvenile and parents.

(3) A government attorney involved in the adjudication of the matter.

(4) Another court of law, in response to a specific inquiry.

(5) Another law enforcement agency, if the request is related to an investigation of a crime or a position within that agency.

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(6) The director of a juvenile treatment facility or agency to which the juvenile has been committed by the court, providing that the request is made in writing.

(7) An agency which is considering the juvenile for a position immediately and directly affecting national security.

c. Neither the name or a photograph of any juvenile may be made public by any medium of public information in connection with any juvenile delinquency proceeding.

d. Juvenile courts in the various states may impose additional requirements or restrictions on security departments concerning juvenile records. These requirements may include the sealing of records. Any such requests will be coordinated with the Staff Judge Advocate.